

**ENTERED**

April 28, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JOSE L TOVAR,

Plaintiff,

VS.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

§§§§§

CIVIL ACTION NO. 2:24-CV-00167

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION  
TO RETAIN PLAINTIFF’S FEDERAL TORT CLAIMS ACT ACTION**


On March 21, 2025, United States Magistrate Judge Jason B. Libby issued his “Memorandum and Recommendation to Retain Plaintiff’s Federal Tort Claims Act [FTCA] Action” (D.E. 29). Plaintiff was provided proper notice of, and opportunity to object to, the Magistrate Judge’s memorandum and recommendation. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); General Order No. 2002-13. No objections have been timely filed.

When no timely objection to a magistrate judge's memorandum and recommendation is filed, the district court need only satisfy itself that there is no clear error on the face of the record and accept the magistrate judge's memorandum and recommendation. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)).

Having reviewed the findings of fact and conclusions of law set forth in the Magistrate Judge's memorandum and recommendation (D.E. 29), and all other relevant

documents in the record, and finding no clear error, the Court **DISREGARDS** the findings regarding any inconsistencies in Plaintiff's allegations and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. The Court finds the United States is not immune in this action and **RETAINS** Plaintiff's FTCA claim based on the negligence of Bureau of Prison employees in failing to take appropriate steps to prevent a foreseeable assault of Plaintiff by Dr. Mank. The Court **DISMISSES WITHOUT PREJUDICE** all of Plaintiff's other claims.

**ORDERED** on April 28, 2025.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE